GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Pulivendula Venkata Swamy S/o Pulivendula Narsimhulu Occ: Junior Assistant, ZP High School, Kodigudlapadu (V), SAKN Mandal, YSR Kadapa District, against the proceedings No. R.Dis. (C5)/716/M/2010, dated 27.04.2012 of the District Collector, YSR Kadapa - under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/1993) – Appeal Petition remanded for fresh enquiry – Orders- Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.Ms.No.11 Dated:19.01.2016

Read the following:

Ref:-1. Proceedings of the District Collector, YSR Kadapa, No. R.Dis. (C5)/716/M/2010, dated 27.04.2012.
2. Sri Pulivendula Venkata Swamy S/o Pulivendula Narsimhulu Occ: Junior Assistant, ZP High School, Kodigudlapadu (V), SAKN Mandal, YSR Kadapa District before M (TW), No.396/M(TW)/2012, dt. 09.05.2012.
3. Govt. Memo.No. 6701/CV.2/2012, S.W(CV.2) Department, dt.15-05-2012.
4. From the District Collector, YSR Kadapa, Lr. No. Ref. C5/703/2012, dt.19.10.2012.
5. Govt.Memo.No.6700/CV.2/2012, S.W(CV.2) Department, dated 30.08.2013.
6. Written arguments filed by the counsel for the appellant before the Government, dated 12.09.2013.
7. Govt.Memo.No.6701/CV.2/2012, S.W(CV.2) Department, dated 05.11.2014.
8. Govt.Memo.No.6701/CV.2/2012, T.W(CV.2) Department, dated 23.02.2015.

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ORDER:

In the reference 1st read above the District Collector, YSR Kadapa has issued orders canceling ST- Chenchu Certificate obtained from the then Tahsildar, Porumamilla, YSR Kadapa District in 2002 by Sri Pulivendula Venkata Swamy S/o Pulivendula Narsimhulu, YSR Kadapa District.

2. In the reference 2nd read above, Sri Pulivendula Venkata Swamy S/o Pulivendula Narsimhulu, YSR Kadapa District has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, YSR Kadapa. After examining the said Appeal Petition, Government have admitted the Appeal Petition & granted stay on the said proceedings of the District Collector, YSR Kadapa and called for the parawise remarks and connected records from the District Collector, YSR Kadapa in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, YSR Kadapa has furnished the Parawise remarks on the said Appeal Petition filed by Sri Pulivendula Venkata Swamy S/o Pulivendula Narsimhulu, YSR Kadapa District.

4. The said Appeal Petition has been posted for hearing on 12.09.2013 and the same has been informed to the Appellant and the Counsel for the Appellant and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim vide reference 5th read above. The Appellant and Advocate to the Appellant attended the said hearing before the then Hon'ble Appellate Authority and argued the case and explained his community status and filed Written Arguments before the then Hon'ble Appellate Authority in support of his community claim in the reference 6th read above. After conducting the hearing on

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the said date the then Hon'ble Appellate Authority has ordered to conduct a thorough examination on legality of the documentary evidences/ Registered sale deeds with reference to the written arguments filed by Counsel for the Appellant and the report on the Chenchu Community submitted by the then Director, TCR&TI, Hyderabad, in the month of May 2010 and Constitutional Orders issued by the Government of India on the Chenchu Community and other Judgments made by various Courts on the Chenchu Community and rules prescribed thereon.

5. The said Appeal Petition has been again posted for hearing on 13.11.2014 and finally on 28.02.2015 and the same has been informed to the Appellant and the Counsel for the Appellant and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 7th and 8th read above.

6. During the hearing after heard both the sides and on perusal of records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, YSR Kadapa and proceedings of the District Collector, YSR Kadapa dated. 27.04.2012, it is observed that the District Collector, YSR Kadapa who passed the impugned order did not examine the Registered sale deeds submitted by the Appellant. Further, the TCR & TI report which generally held "there are no ST Chenchus in Kadapa District" has not dealt with which disclose their caste and the said material is not at all considered in the said report. No doubt there are several complaints against the Appellant on the premise that he belongs to Balija but not to ST Chenchu community. Mainly Dr. Gundeboina Muralidhar's former wife alleges that he was not a "Chenchu". The Counsel for the Appellant argued vociferously mainly contending that lot of record filed by the Appellant was not at all considered by the learned District Collector.

7. Further it is observed that with the migration and modernisation and contact with other communities, these communities tend to develop and adopt new traits which may not essentially match with essential characteristics of the Tribe. Hence "affinity test" cannot be regarded as a litmus test to establish the link with the ST. No doubt the registered sale deed filed by Appellant which is said to have been executed on 24.04.1924 in favour of Pulivendula Linganna alias Tikka, S/o Venkataswami R/o Makavari Palli is addressed as Chenchu Kulam. Similarly in another document bearing No.1040/1959, the vendee is shown to be Jwala Narsimhulu, S/o Pulivendula Venkaiah of Makavaripalli Village and he is also shown to be of Chenchu Community. Similarly several other records are filed by the Appellant to show that he belongs to ST chenchu.

8. In view of the facts and circumstances, the Government is considered the view that the registered documents, birth certificates of the Appellant, his father and his grandfather were not examined before the conclusion was arrived at as to the caste of the individual. As per the decision of the Honorable Supreme Court cited supra, the officers of Commissioner Tribal Welfare who are asked to examine the sale deeds filed by the parties both prior to and subsequent to Independence, they in turn submitted that the Registered sale deeds are true. However they could not say anything about relationship of the Appellant with the said document. The Appellant said that they are his fore fathers. Hence this case is fit to be decided by the learned District Collector, YSR Kadapa afresh giving opportunity to both the parties including the former wife of Dr. Gundeboina Muralidhar's by name to produce their records. In the result the matter is remanded to the District Collector, YSR Kadapa for fresh enquiry and to dispose of the matter within three months. Meanwhile the status quo shall be maintained.

9. The Government, in exercise of the powers conferred under Section 8(1) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decided that the Appeal Petition filed by Sri Pulivendula Venkata Swamy S/o Pulivendula Narsimhulu, YSR Kadapa District is remanded to the District Collector, YSR Kadapa for

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enquiry fresh and to dispose of the matter within three months. Hence, Proceedings of the District Collector, YSR Kadapa issued vide R.Dis. (C5)/716/M/2010, dated 27.04.2012 is hereby held and the Appeal Petition filed by Sri Pulivendula Venkata Swamy S/o Pulivendula Narsimhulu, is hereby remanded to District Collector, YSR Kadapa to examine the several documents, such as Registered sale deeds, Registers, Educational Certificates & the Birth Registers maintained under Registration of Births and Deaths Act of Rangasamudram Village produced by Dr.Gundeboina Muralidhar and other Appellants for fresh enquiry and to dispose of the matter within three months. Meanwhile the status quo shall be maintained.

10. Consequently, the District Collector, YSR Kadapa shall take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. A. VIDYA SAGAR
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, YSR Kadapa

Sri Pulivendula Venkata Swamy S/o Pulivendula Narsimhulu
Occ: Junior Assistant, ZP High School, Kodigudlapadu(V),
SAKN (M), YSR Kadapa District.

Sri S. Sri Ram Reddy, Advocate,
Ganga 1-10-249/2, Ashoknagar Extension,
Hyderabad – 500 020.

Copy to:
The Director, TCR& TI, AP, Hyderabad
P.S. to Hon'ble Minister(SWE&TWE)
P.S. to Principal Secretary(TW)
The Commissioner of Tribal Welfare, AP. Hyderabad.

// FORWARDED:: BY ORDER //

SECTION OFFICER